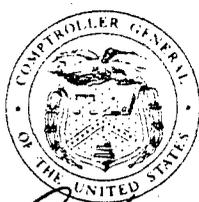


Mr. Alton

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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*[Untimely Protests of Contract Awards]*

December 4, 1980

FILE: B-201203, B-201221, B-201222, B-201223, B-201224

DATE:

MATTER OF: Premo Pharmaceutical Laboratories, Inc.

**DIGEST:**

1. Protests filed with GAO more than 10 working days after protester receives notification of denial of protests filed with contracting agencies are untimely and will not be considered on merits.
2. Protest initially filed with GAO more than 10 working days after basis for protest was known is untimely.

Premo Pharmaceutical Laboratories, Inc. (Premo), protests the award of four contracts by the Defense Personnel Support Center, Defense Logistics Agency (DLA), under solicitations Nos. DLA120-80-R-0974, DLA120-80-B-1107, DLA120-80-B-1479, and DLA120-80-R-0797, and the award of one contract by the Veterans Administration (VA) under solicitation No. M5-50-80.

Premo initially protested under each of the aforementioned solicitations to the appropriate agency, with the exception of solicitation No. DLA120-80-R-0974. In each of those cases, the agency denied the protest. Our Bid Protest Procedures state that if a protest has been filed initially with the contracting agency, any subsequent protest to GAO filed within 10 days of formal notification of or actual or constructive knowledge of adverse action will be considered. 4 C.F.R. § 20.2(a) (1980). Because Premo's protests were not filed until November 13, 1980, more than 10 days after Premo received the DLA and VA protest denials, the protests are untimely. Tempesta & Son Co., B-199469, July 21, 1980, 80-2 CPD 55.

The protest filed under solicitation DLA120-80-R-0974 is also untimely. Although Premo sent a September 22, 1980, letter of protest to the Food and Drug Administration (FDA), Department of Health and Human Services, FDA was not the contracting agency and, therefore, the Premo protest filed

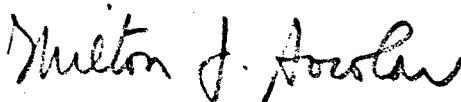
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in our Office on November 13, 1980, constituted the initial filing of the protest. Our Bid Protest Procedures, 4 C.F.R. § 20.2 (1980), require protests of the nature involved here to be filed with the contracting agency or our Office not later than 10 days after the basis for protest is known or should have known, whichever is earlier. The protest under this solicitation was filed more than 10 days after the September 22, 1980, letter which states Premo's grounds for protest and is consequently untimely. Hydraulic Technology, Inc., B-196450, January 7, 1980, 80-1 CPD 19.

The protests are dismissed.



Milton J. Socolar  
General Counsel